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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

DEC 19 1991

Federal Communications Commission
Office of the Secretary

In the Matter of)
)
Review of the Policy Implications)
of the Changing Video Marketplace)
)
TO: The Commission)

MM Docket No. 91-221

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FILE

REPLY COMMENTS OF PRESS BROADCASTING COMPANY, INC.

1. Press Broadcasting Company, Inc. ("Press"),
permittee of Station WKCF(TV), Clermont, Florida, hereby submits
its Reply Comments in the above-captioned proceeding. As an
independent broadcast television operator, Press encourages the
Commission to take a careful look at the present and likely
future state of the video marketplace. As reflected in many of
the Comments already filed in this proceeding -- and also as
reflected in the Office of Plans and Policy Working Paper No. 26,
"Broadcast Television in a Multichannel Marketplace", 6 FCC Rcd
3996 (1991) -- the on-going revolution in video technology,
together with accompanying social and cultural changes in
American society, have dramatically altered the environment in
which the Commission must advance its regulatory mission.

2. Several particular points warrant specific
consideration. First, a number of commenters have addressed the
need vel non to preserve the existing relationships between the
television broadcast networks and (a) cable ownership and
(b) their own affiliates. While those relationships are

important, Press believes that an equally important relationship is that between network-affiliated stations and independent stations in the same market. In Press' view, the Commission should assure that its rules do not give rise to any disparity between network affiliates and independents insofar as their respective abilities to acquire syndicated programming from any source are concerned. It is Press' experience that, in the present-day market, network affiliates are competing directly with independent stations for the right to broadcast non-network syndicated programming. That is, despite the availability of network-produced programming, network affiliates still seek programming from alternative sources, i.e., the same sources traditionally utilized by independents. In light of this direct competition, it makes no sense to distinguish between the two types of stations. Rather, both should be able to compete freely with one another on an equal footing in the syndicated programming marketplace.

3. Along the same lines, Press suggests that the Commission consider requiring that program syndicators make their programs available strictly on a market-by-market basis, so that each station competing in a given market is given the opportunity to bid on any syndicated programming which might be available for broadcast in the market. As matters now stand, it is not unusual for syndicators to cut special deals with, for example, group station owners. The result is that smaller licensees with only

one or two stations are never given the chance to bid for such programming. To the extent that the Commission believes that it is appropriate to focus its rules in the context of "local" markets -- and Section 307(b) of the Communications Act certainly reflects Congressional support, if not direction, for such a focus -- it is equally appropriate to assure equal competition within local markets irrespective of economies of scale which might be available because of ownership interests outside the local market.

3. Second, many commenters have addressed the question of the impact of compression technology on the future of broadcast television. Under some scenarios, a six megahertz bandwidth signal could carry not just one, but several programming selections. Thus, unlike the current situation in which a broadcaster is limited to a single programming selection from which to derive revenues, a television broadcast authorization could provide multiple potential revenue sources. As a result, broadcasters may be able to compete with other multi-channel video providers, such as cable operators.

4. Press supports the development of compression technology, and encourages the Commission to take appropriate action to foster that development. But Press offers one caveat. In the event that the Commission (whether or not at Congress' specific direction) adopts new mandatory carriage provisions

requiring the carriage of certain broadcast stations by cable operators, those new provisions should assure carriage of all of a broadcaster's programming selections. That is, any must-carry regime should provide that that which is subject to must-carry is the broadcaster's entire authorized signal, whether that signal consists of a single program offering or multiple offerings. Such an approach would clearly be consistent with the national interest in increasing the diversity of available programming. It would also assure that broadcasters would be permitted to compete on a more equitable basis with other video providers. ^{1/}

5. The foregoing comments should not be read as an absolute endorsement by Press of reimplementation of must-carry rules. Press recognizes that such rules may present serious

^{1/} A further consideration related to the compression question involves the extent to which a syndicator can limit the particular channel on which a broadcaster may deliver its programming. Presently, some syndicators take the position that a license to broadcast their programming is restricted to use, by the broadcaster, of a particular channel. As a result, if, for example, the broadcaster obtains a new channel in the same community, those syndicators occasionally claim that whole new syndication agreements may be required, even though the initial agreements already provided the broadcaster with the right to broadcast the programming in the market.

Such questions will be aggravated by compression technology, which may be seen by such syndicators as providing additional opportunities to, in effect, renegotiate their contracts if, through the compression process, the programming ultimately appears on the viewer's receiver on a channel not specifically provided for in the original programming license agreement. Press suggests that, to the extent that its jurisdiction permits it, the Commission make clear that syndication agreements will authorize broadcast of programming in a given marketplace irrespective of the particular channel or technology used.

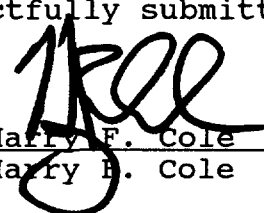
drawbacks, and any readoption of such rules should be carefully considered. Press does wish to emphasize that one frequently-proposed "alternative" to must-carry -- i.e., the notion of retransmission consent -- itself presents a number of problems. For example, the stations which generally support retransmission consent are those with strong ratings; such stations could therefore presumably command substantial fees for carriage in a retransmission consent environment. But such substantial fees could then be used by those stations to outbid less successful stations for popular programming, leading to further disadvantage for the struggling stations. Press suggests that, if retransmission consent were to be adopted, one solution to this would be to require that all fees for carriage of any local stations be placed in a pot and divided fairly among all local stations carried by the system. In this way the competitive balance among the local stations would not be unduly upset by the aggravating effect of carriage fees paid only to the already popular stations.

6. Of course, a similar mechanism might be adopted in a must-carry environment. For example, local stations could be included among the recipients of the royalties paid into the Copyright Office by cable systems. A set percentage of those royalties might be allotted to all local stations carried; that allotment could then be distributed among those stations by some fair mechanism (e.g., proportionately according to their

respective ratings).

7. Again, Press is not here advocating either a specific must-carry system or a specific retransmission consent approach. Rather, it is noting that, whatever steps may be taken to assure the correction of the cable/broadcast imbalance, those steps should be carefully designed to avoid exacerbation of any intra-broadcast imbalance which may already exist.

Respectfully submitted,


/s/ Harry F. Cole
Harry F. Cole

Bechtel & Cole, Chartered
1901 L Street, N.W.
Suite 250
Washington, D.C. 20036
(202) 833-4190

Counsel for Press Broadcasting
Company, Inc.

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